

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

J. O. HOUSE  
and HEATH & HOUSE  
CONSTRUCTION CO., INC.,

Plaintiffs,

vs.

CONSECO INSURANCE GROUP,

Defendant.

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No. 3:06cv0067 SWW

ORDER

This action concerns the cancellation of an insurance policy issued by Consecos Insurance Group (“Consecos”) to Heath & House Construction, Inc. (“H&H”), of which J.O. House (“House”) is president (collectively “plaintiffs”). The matter is before the Court on motion of defendant for summary judgment [doc.#88]. The plaintiffs have responded in opposition to Consecos’s motion and Consecos has filed a reply to plaintiffs’ response.

At Consecos’s request, the Court held a hearing on its motion for summary judgment on July 10, 2008. During that hearing plaintiffs announced they were withdrawing their claim under the Arkansas Deceptive Trade Practices Act. Accordingly, that claim is no longer at issue. As to the remainder of Consecos’s motion for summary judgment, the Court finds for the reasons stated during the hearing that there remain genuine issues of material fact for trial and that Consecos’s motion for summary judgment must be and hereby is denied.

Due to a pending criminal trial that conflicts with the scheduled trial date for this action, the Court hereby continues this action and will in due course issue an amended scheduling order.

Conseco's motion [doc.#106] to extend the time to file jury instructions and its motion [doc.#105] for a hearing on the motion for summary judgment (the hearing having since been conducted) are denied as moot.

IT IS SO ORDERED this 10<sup>th</sup> day of July 2008.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE